

IN THE MATTER OF MERCHANT MARINER'S DOCUMENT NO. Z-597651-D-1
AND ALL OTHER SEAMAN'S DOCUMENTS
Issued to: William N. THOMAS

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1846

William N. THOMAS

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 137.30-1.

By order dated 24 March 1969, an Examiner of the United States Coast Guard at Port Arthur, Texas suspended seaman's documents for twelve months upon finding him guilty of misconduct. The specifications found proved allege that while serving as an ordinary seaman on board M/V TAMARA GUILDEN under authority of the document above captioned, Appellant:

- (1) on 24 December 1968, at Haifa, Israel, failed to perform duties because of intoxication;
- (2) at the same time and place, wrongfully had intoxicants in his possession aboard the vessel;
- (3) on 2 January 1969, failed to perform duties at sea; and
- (4), (5), (6) & (7) on 21, 22, 23,, and 24 February 1969 failed to perform duties at sea.

At the hearing, Appellant elected to act as his own counsel. Appellant entered a plea of guilty to the charge and specifications (1) and (2), and not guilty to specifications (3) through (7).

The Investigating Officer introduced in evidence voyage records of TAMARA GUILDEN.

In defense, Appellant offered in evidence the testimony of the master of TAMARA GUILDEN and made an unsworn statement.

At the end of the hearing, the Examiner rendered a written decision in which he concluded that the charge and specifications had been proved. The Examiner then entered an order suspending all documents issued to Appellant for a period of twelve months.

The entire decision was served on 27 March 1969. Appeal was timely filed on 28 March 1969. Although Appellant had until 27 May 1969 to add to his original notice of appeal, he has not done so.

FINDINGS OF FACT

On all dates in question, appellant was serving as an ordinary seaman on board M/V TAMARA GULDEN and acting under authority of his document.

Subject to some comment given in the Opinion below, Appellant, at the dates and places in question performed, or failed to perform, the acts set out above as found proved.

BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner. It is urged that the order of suspension is excessive.

APPEARANCE: Appellant, pro se.

OPINION

I

In his Opinion, the Examiner states that the master of the vessel was called by the Investigating Officer as a witness. D-3. The record clearly shows that the master was called as a character witness by Appellant himself. R-8. The Examiner also was of the opinion that the master had testified that Appellant was intoxicated on 21-24 February 1969, and that this was the cause of his failure to perform duties. D-3. The master testified that appellant was a good worker and clean, but that when he was drinking he was "null and void." The master did not testify about any specific dates. R-9.

II

The evidence establishes, and the Examiner found, in his detailed findings, that Appellant missed his 0400 to 0800 watch on 23 february 1969, and his 1600-2000 watch on 24 February 1969. This implies that he stood his other watch on each of these dates and lessens the offenses as specified and found proved.

III

Appellant has an unenviable prior record comprising five varying suspension orders since 1951. The last one, however, was in 1964. It included twelve months' suspension plus six months on eighteen months' probation. Computation of dates shows that

Appellant was on probation until 25 March 1967.

There can be no hesitancy about affirming a twelve month suspension, or even an order of revocation, in the case of a sixth hearing at which charges have been found proved.

ORDER

The order of the Examiner, entered at Port Arthur, Texas, on 27 March 1969, is AFFIRMED.

C. R. BENDER
Admiral, U. S. Coast Guard
Commandant

Signed at Washington, D.C., this 22nd day of June 1971.

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Order of Examiner

Prior record considered